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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,574	01/02/2002	Kellar Autumn	14134-002001	1771
22434	7590	03/21/2005	EXAMINER	
BEYER WEAVER & THOMAS LLP			AFTERGUT, JEFF H	
P.O. BOX 70250			ART UNIT	PAPER NUMBER
OAKLAND, CA 94612-0250			1733	

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/039,574	Applicant(s) AUTUMN, KELLAR	
	Examiner Jeff H. Aftergut	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 1228.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
 4a) Of the above claim(s) 1-23,30-35 and 37-50 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 24-29 and 36 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 24-29 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Autumn et al (the article from Nature entitled “Adhesive force of a single gecko foot-hair”) or Liang et al (the article from Solid State Sensor and Actuator Workshop from June 4-8, 2000 entitled “Adhesive Force Measurements on Single Gecko Setae”).

The article in Nature magazine suggested that at pages 681 to 683 that it was known at the time the invention was made to attach a single seta to a micro-electromechanical system cantilever capable of measuring force during attachment parallel and perpendicular to surfaces, see Figure 1 (e). the applicant is referred to Figure 3 for the placement of the seta onto the surface in the manner claimed wherein the seta is applied to a surface with a force perpendicular to said surface so as to preload an adhesive force of the seta. The flexible beam is oriented such that the seta is parallel to the surface and the flexible beam is pulled to reorient the seta with a force parallel to the surface. With regard to claim 25, the reference suggested that the adhesive force is greater than the cumulative force of the applying and pulling steps as identified by the reference. Regarding claims 26-28, the reference expressly stated that the adhesive force was created by exerting a force to produce a detachment angle between the seta and the surface wherein the angle was approximately 30 degrees.

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Regarding claim 29, the flexible beam produced a preload force while maintaining the seta substantially parallel to the surface to which the seta is attached.

In a like manner, applicant is referred to the article by Liang et al wherein the reference expressly suggested that a dual action cantilever would have had a seta attached thereto and manipulated in the fashion claimed in order to measure the forces associated with the attachment of the seta to the surface in the manner claimed.

Election/Restrictions

3. Applicant's election of Group V, claims 24-29 and 36 in the reply filed on 12-28-04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
4. Claims 1-23, 27-35, and 37-50 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12-28-04.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 571-272-1156. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeff M. Aftergut
Primary Examiner
Art Unit 1733

JHA
March 16, 2005